

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105

File No. RH01013503
Notice File No. Z-02-0318-03
Date: July 29, 2002

Subject: Direct Repair Programs and Labor Rate Surveys

FINAL STATEMENT OF REASONS

THE FOLLOWING AMENDMENTS ARE THE ONLY CHANGES TO THE INFORMATION THAT WAS PRESENTED IN THE INITIAL STATEMENT OF REASONS:

Section 2698.90 Direct Repair Programs

Section 2698.90(a) has been amended to clarify that the section applies to auto body repair facilities. The subsection has also been amended to delete the word informal and specifically allow for written and oral agreements.

A grammatical change was made in Section 2698.90(b), changing the word “send” to “make.”

Section 2698.91 Auto Body Repair Labor Rate Surveys

For consistency, Section 2698.91(a) has been amended to add “auto body repair” when the term “labor rate” is used in defining what constitutes an auto body repair labor rate survey. Additionally, this subsection has been amended to reflect that the information gathered for the survey is for the purpose of determining and setting a specified prevailing auto body repair rate. This amendment was made to be consistent with the specific requirement found in the language of Cal. Ins. Code section 758.

Subsection 2698.91(b) was amended to eliminate the phrase “charged by the majority,” which implied that the Department was mandating how many shops the insurer is required to survey or the methodology they are required to use to determine the prevailing auto body rate. Such action by the Department is not authorized by the language of Cal. Ins. Code section 758.

NO MATERIAL OTHER THAN THAT PRESENTED IN THE INITIAL STATEMENT OF REASONS HAS BEEN RELIED UPON BY THE DEPARTMENT OF INSURANCE.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Department has made a determination that adoption, amendment or repeal of the regulation does not impose a mandate on local agencies or school districts. The regulation has nothing to

do with local agencies or school districts; it neither requires nor prohibits action on their part.

SUMMARY OF AND RESPONSE TO OBJECTIONS OR RECOMMENDATIONS

A verbatim recital of each written and oral comment, objection, and/or recommendation received during the public comment period and the response to each is attached hereto as Exhibit A.

ALTERNATIVES

The Department has determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the adopted regulation. In support of this statement, no alternative was proposed, identified or brought to the attention of the agency during the public comment period. No proposed alternatives were rejected that would lessen the adverse economic impact on small businesses.

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COMMENTER	SECTION	VERBATIM COMMENT (All mistakes in text appear in original)	CDI RESPONSE
<p>Jeffery J. Fuller, Pres. Association of California Insurance Companies 1121 L. Street Ste. 510 Sacramento, CA 95814</p> <p>May 13, 2002</p> <p>Written Submission via e-mail</p>	<p>2698.90(a)</p>	<p>This proposed regulation will interfere with an insurer’s ability to serve his policyholders. Consumers do not ordinarily have routine dealings with body repair shops- it’s not like buying groceries. Companies that “suggest” a repair facility are benefiting their customers, not committing unfair claims practices. At a minimum, the word “suggests” should be deleted.</p> <p>In addition, the section should apply only where there is a formal [i.e. written] agreement between the repair facility and the insurer. Arguably, the existence of an “informal” agreement could be inferred from a brief conversation over lunch in which a claims adjuster thanks a repair shop for his high quality work and commits to recommending the repair shop in the future. Such conduct hardly rises to the level of a “Direct Repair Program.”</p>	<p>Title 10, California Code of Regulations, section 2695.8(e) specifically allows and insurer to suggest a repair facility IF the claimant expressly request a referral, the claimant has been informed in writing of his right to select a repair facility, and the insurer that suggested the repair facility must make sure the vehicle is restored to its pre-loss condition at no additional cost to the claimant other than stated in the policy or as otherwise allowed by regulation. Cal. Code Regs, tit. 10, §2695.8(e)(2). The purpose, and therefore the definition, of Direct Repair Program assume the insurer has met the criterion and properly suggested the repair facility. Therefore, “suggest” will not be deleted.</p> <p>However, the word “informal” is somewhat vague and open to interpretation. Therefore, the proposed regulation will be modified to read as follows: As used in this Article, a “Direct Repair Program” includes any program under which an insurer refers, suggests, or recommends an auto body repair facility to insureds or claimants</p>

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			and the insurer has a formal agreement, whether written or otherwise, with the repair facility to provide auto body repair services to such insureds or claimants.
	2698.91(a)	<p>This section would eliminate a critical condition stated in Insurance Code § 758(c). That section applies to insurers who conduct labor rate surveys <u>“...to determine and set a specific prevailing ... rate in a specific geographic area....”</u> The ability – indeed the desirability – of shopping around is a fundamental tenet of free market economies that applies, for example, to insurance buyers when they buy insurance and should apply as well to insurance companies that must obtain services from body repair shops. By deleting the condition precedent stated in § 758 (c), the proposed regulation would apply to insurers across the board even where they are doing no more than attempting to find the best prices for their policyholders. Thus, the proposed regulation does not “... implement, interpret, or make specific the law,” but actually amends it.</p>	<p>The proposed regulation will be modified to read as follows:</p> <p>An “auto body repair labor rate survey” is any gathering of information from auto body repair shops regarding what auto body repair labor rate the repair shops charge to determine and set a specified prevailing auto body rate in a specific geographic area.</p> <p>This revised language is more consistent with the language of Ins Code § 758.</p>

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<p>Samuel Sorich National Association of Independent Insurers 2600 River Road Des Plaines, IL 60018</p> <p>May 17, 2002</p> <p>Written Submission via e-mail</p>	<p>2698.90(a)</p>	<p>First, Proposed Section 2698.90(a) provides for a definition of “direct repair program.” The definition includes any “informal agreement” between an insurer and a repair facility. The inclusion of the concept of informal agreements in the definition would create uncertainty about the requirements for complying with and the enforcement of the provisions of Insurance Code § 758. The term “informal” could be interpreted to include an array of contacts between insurers and repair shops which do not reasonably qualify as real programs. To avoid this uncertainty, NAII recommends the term “informal” should be deleted from proposed section 2698.90(a).</p>	<p>The word “informal” is somewhat vague and open to interpretation. Therefore, the proposed regulation will be modified to read as follows:</p> <p>As used in this Article, a “Direct Repair Program” includes any program under which an insurer refers, suggests, or recommends an auto body repair facility to insureds or claimants and the insurer has a formal agreement, whether written or otherwise, with the repair facility to provide auto body repair services to such insureds or claimants.</p>

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	2698.91(a)	<p>Second, proposed section 2698.91(a) defines “labor rate survey.” The definition describes the survey as information used by an insurer to “determine” the prevailing rate charged by auto body repair shops. Insurance Code § 758 provides that a labor rate survey is used “to determine and set” a prevailing rate. In order to achieve consistence with Insurance Code § 758, NAII recommends that the term “set” should be added to proposed Section 2698.91(a).</p>	<p>The proposed regulation will be modified to read as follows:</p> <p>An “auto body repair labor rate survey” is any gathering of information from auto body repair shops regarding what auto body repair labor rate the repair shops charge to determine and set a specified prevailing auto body rate in a specific geographic area.</p> <p>This revised language is more consistent with the language of Ins Code § 758.</p>
<p>Keesh-Lu Mitra, Esq. State Farm Insurance Companies 1201 K Street, Suite 920 Sacramento, CA 9514</p> <p>May 17, 2002</p> <p>Written Submission via facsimile</p>	2698.91(a)	<p>Proposed section 2698.91(a) adds a definition of “labor rate survey.” In addition to questioning its necessity, this definition of “labor rate survey” as currently drafted is confusing. We recommend the following highlighted changes that will enhance clarity. “A ‘labor rate survey’ is any gathering of information from auto body repair shops regarding what labor rate the repair shops charge to determine the prevailing auto body rate charged by auto body repair shops in a specific geographic area.”</p>	<p>The proposed regulation will be modified to read as follows:</p> <p>An “auto body repair labor rate survey” is any gathering of information from auto body repair shops regarding what auto body repair labor rate the repair shops charge to determine and set a specified prevailing auto body rate in a specific geographic area.</p> <p>This revised language is more consistent with the language of Ins Code § 758.</p>

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	2698.91(b)	<p>Section 2698.91(b) proposes a definition of “prevailing auto body rate.” This proposed definition is problematic for a number of reasons. The enabling statute, Insurance Code Section 758, merely requires insurers to provide the results of labor rate surveys to the department. The statute does not require uniformity in surveys nor does it contemplate the department dictating the number of shops that are surveyed in any particular area. To do so is not authorized by statute and interferes with the free market working of the insurance industry.</p> <p>Specifically, the word “majority” should be deleted from the definition as it lacks clarity and its use exceeds the statutory authority. It does not account for the capacity of a shop to handle an insurer’s base of customers, equipment repair abilities, or customer service records of surveyed shops, all of which are integral components of an appropriate survey system. We suggest that the definition be amended to read: “‘Prevailing auto body rate’ means the rate determined by an insurer pursuant to its</p>	<p>The proposed regulation will be modified to read as follows:</p> <p>“Prevailing auto body rate” means the rate determined and set by an insurer as a result of conducting an auto body labor rate survey of auto body repair shops in a particular geographic area and used by the insurer as a basis for determining the cost to settle automobile collision, physical damage, and liability claims for auto body repairs.</p> <p>Section 758 does not authorize the Department of Insurance to dictate or set how any insurer conducting an auto body repair labor rate survey should conduct its survey or what method it should use to determine a prevailing auto body labor rate in a specific geographic area. It simply says that IF and insurer conducts an auto body repair labor rate survey to determine and set a specified prevailing auto body labor rate in a specific geographic area,</p>

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		labor rate survey of auto body repair shops in a particular geographic area to determine the cost to settle automobile collision, physical damage, and liability claims for auto body repairs.”	<p>they must provide the results of the survey to the Department of Insurance.</p> <p>The word “majority” implies a specific methodology the insurer should use. The statute does not intend, nor does it authorize, the Department of Insurance to dictate how the survey is to be conducted or the number and quality of shops that are to be included in the survey.</p>
	2698.91(c)	The proposed requirements in subsections (5) and (6) would require insurers to provide the geographic area and methodology employed by the insurer in conducting the survey. These proposed components are of significant concern as they are not authorized by statute and they impose unreasonable burdens on insurers. In particular, the statute requires the reporting only of the name, address and number of shops surveyed. The geographic area and description of methodology is not listed in the statute. Further, the geographic area is evident from the addresses of the shops surveyed that is provided in the results submitted to the department pursuant to the statute thus making this requirement	<p>Although the statute does not specifically state that the geographic area represented by the labor rate reported and methodology should be reported, the statute’s use of the word “include” indicates that there may be other information reported not specifically enumerated in the statute.</p> <p>The statute specifically contemplates that the prevailing auto body rate determined and set by the insurer will correspond to a specific geographic area. Therefore, the requirement that the specific geographic area be identified is not only authorized by statute, but also reasonable. Simply</p>

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		<p>unnecessary, in addition to unauthorized.</p> <p>Additionally, State Farm’s methodology for determining the specific prevailing auto body rate is trade secret, confidential and proprietary information that is not subject to disclosure except pursuant to a confidentiality agreement. The proposed regulation should recognize and not require the provision of such information. There is no statutory authority for requiring any description of the methodology used, let alone a description that would be a trade secret. As such, we propose the following amendment to subsection (c): “Any confidential or trade secret information should be removed from the labor rate survey results prior to submitting the survey to the Department of Insurance.”</p> <p>In addition, if State Farm is the only major insurer conducting labor rate surveys, requiring the provision of this information only allows competitors to have free access to the results of State Farm’s efforts which is inherently unfair and which ultimately may also discourage insurers from doing their own surveys. This result would seemingly run contrary to the Department’s</p>	<p>listing the addresses of the shops and the prevailing auto body rates without a description of the specific geographic area the rate applies to makes it impossible to determine to which shops the rate reported applies. Additionally, the proposed regulations in no way dictate or mandate how an insurer should delineate a specific geographic area.</p> <p>Regarding methodology, a general description of how the insurer arrived at the prevailing auto body rate it reports is not trade secret. Civil Code section 3426.1(d) defines trade secret as “information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.”</p> <p>The proposed regulations require the</p>

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		intent by doing a disservice to California consumers.	<p>insurer to report the name and address of the shops surveyed and the prevailing rate determined and set by the insurer as a result of the auto body labor rate survey. With only these pieces of information, and not the specific rates reported by each individual shop surveyed, it would be difficult for anyone to gain any economic advantage simply from knowing that the insurer conducting the survey used an average and not a median. It would be equally difficult to determine from the information required the rate each shop surveyed reported. Therefore, the methodology itself has no independent economic value from not being disclosed. Moreover, the Department is not aware of any reasonable efforts to maintain the secrecy of the methodology. In fact, the results of State Farm's labor rate surveys are currently knowingly widespread in the industry.</p> <p>Lastly, the commenter's concern that if they are the only insurers conducting auto body labor rate surveys, the results of their efforts will be available to their</p>

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			<p>competitors is without merit. Section 758 specifically requires that insurers submit their results to the Department of Insurance and that the Department make those results available to anyone who requests them. So, anyone is able, by law, to have “free access to the results of State Farm’s efforts” in this regard.</p>
<p>Doug Lutgen, Esq. CSAA Inter -Insurance Bureau 150 Van Ness Avenue P.O. Box 429186 San Francisco, CA 94142</p> <p>May 17, 2002</p> <p>Written and Oral Submission. Oral submission addresses same points as written submission.</p>	<p>2698.90 (a)</p>	<p>We believe the language of subpart (a) should be modified to more closely track the language of the statute the regulation is intended to implement [Insurance Code section 758 (b)]. Section 758 specifically limited by its own language to auto body repair, not other types of damage or services, so explicit reference to “auto body repair” should be included in two places in the definition in order to meet the consistency standard.</p> <p>We also believe the phrase “or informal” should be deleted from subpart (a) as it introduces an ambiguity and, therefore, the proposed regulation lacks the required clarity. The concept of a “formal agreement” may be reasonably susceptible to common interpretation as requiring some</p>	<p>This language will be revised to more closely follow the language of Ins Code § 758.</p> <p>Additionally, the word “informal” is somewhat vague and open to interpretation. Therefore, the proposed regulation will be modified to read as follows:</p> <p>As used in this Article, a “Direct Repair Program” includes any program under which an insurer refers, suggests, or recommends an auto body repair facility to insureds or claimants and the insurer has a formal agreement, whether written or otherwise, with the repair facility to provide auto body repair services to such insureds or claimants.</p>

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		<p>substantive evidence, often written, of the existence and the nature of the agreement. However, the use of the word “informal” introduces an ambiguous term that is both undefined and subject to a myriad of differing interpretations.</p> <p>Finally, we would recommend changing the final “the” in subpart (a) to read “such” and to change the phrase “insured or claimant” to read “insureds or claimants” in both places it appears. The change is suggested because, technically, whatever agreement the insurer has with the repair facility would be to provide services to insureds and claimants in general; the agreement would not so explicit as to reference a particular individual.</p> <p>The following is our suggested text for subpart (a): “As used in this Article, a “Direct Repair Program” includes any program under which an insurer refers, suggests or recommends an auto body repair facility to insureds or claimants and the insurer has a formal agreement with the repair facility to provide auto body repair services to such insureds or claimants.</p>	

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	2698.91(a)	<p>For consistency with the statute [Insurance Code section 758(c)], we suggest that the defined term in the body of subpart (a) read “auto body repair labor rate survey” rather than “labor rate survey.”</p> <p>The language of subpart (a) also inadvertently omits pertinent parts of the statutory language. The proposed regulation uses the phrase “to determine the prevailing auto body rate,” whereas Insurance Code section 758(c) uses the phrase “to determine and set a specified prevailing auto body rate.” We suggest that for consistency and clarity the regulation follow the statutory language and not omit key phrases.</p>	<p>The proposed regulation will be modified to read as follows:</p> <p>An “auto body repair labor rate survey” is any gathering of information from auto body repair shops regarding what auto body repair labor rate the repair shops charge to determine and set a specified prevailing auto body rate in a specific geographic area.</p> <p>This revised language is more consistent with the language of Ins Code § 758.</p>
	2698.91(b)	<p>Subpart (b) sets forth a definition of “prevailing auto body rate.” The statute it is interpreting [Insurance Code section 758(c)] requires, among other things, that an insurer which conducts an auto body repair labor rate survey to determine and set a specified prevailing auto body rate must supply the Department of Insurance with the “total number of shops surveyed.” There is no language in the statute to require that an insurer survey any <u>particular</u> number or percentage of shops, or that particular</p>	<p>Section 758 does not authorize the Department of Insurance to dictate or set how any insurer conducting an auto body repair labor rate survey should conduct its survey or what method it should use to determine a prevailing auto body labor rate in a specific geographic area. It simply says that IF and insurer conducts an auto body repair labor rate survey to determine and set a specified prevailing auto body labor rate in a specific geographic area,</p>

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		<p>geographic area be surveyed. Instead, the statute merely directs that if an insurer conducts a labor rate survey, using its own methodology, and determines and sets such a rate, the insurer must “report the <u>results</u> of that survey to the department” (emphasis added), as well as report on the names and addresses of shops and “the total number of shops surveyed.” However, subpart (b) of the proposed regulation defines “prevailing auto body rate” as being the “rate charged by the <u>majority</u> of auto body repair shops in a particular geographic area” (emphasis added). To comply, an insurer would have to survey <u>all</u> shops in a given area in order to be able to determine what a “majority” of them charge, something which is not only impractical or impossible, but would require the insurer to include figures from substandard, ill-equipped, and arguable non-registered shops with lower labor rates than would normally be charged for high quality repairs. That could artificially drive <u>down</u> the amount of the “prevailing rate” this determined.</p> <p>We are unclear as to the authority for requiring that “prevailing auto body rate” be defined in terms of a “majority” of shops in</p>	<p>they must provide the results of the survey to the Department of Insurance.</p> <p>The word “majority” implies a specific methodology the insurer should use. The statute does not intend, nor does it authorize, the Department of Insurance to dictate how the survey is to be conducted or the number and quality of shops that are to be included in the survey.</p> <p>The proposed regulation will be modified to read as follows:</p> <p>“Prevailing auto body rate” means the rate determined and set by an insurer as a result of conducting an auto body labor rate survey of auto body repair shops in a particular geographic area and used by the insurer as a basis for determining the cost to settle automobile collision, physical damage, and liability claims for auto body repairs.</p>

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		<p>a given area. Had the Legislature intended to require insurers to conduct such surveys in a particular additional ways or detail, or in a fashion that employs uniform methodology across all insurers it could have done so. However, it did not do so, likely out of recognition that designing a process that would be uniform is a matter best undertaken with respect to activities which are mandated by law; here, the conducting of labor rate surveys is left to the <u>discretion</u> of individual insurers.</p> <p>It does not appear from the legislative history of SB 1988 (which enacted section 758 during the 2000 legislative session) that the Legislature intended, thus far, to go beyond merely requiring insurers that <u>do</u> determine and set prevailing auto body rates in a specific geographic area to make their results, and arguably their methodology, available for regulatory and public scrutiny.</p> <p>There is no statutory language or evidenced legislative intent to suggest that the Department of Insurance is obligated or permitted to require and collect survey results in such a way as to establish a uniform database. Section 758 was enacted as a small part of a much larger bill dealing</p>	

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		<p>with fraud and auto repair issues and subpart (c) appears to be merely an effort to allow regulators and the public to <u>see <i>what</i> insurers do when conducting such surveys, not mandate in detail <i>how</i> they do it.</u></p> <p>Subpart (c) of the proposed regulation would require that the report of survey “results” additionally include “the prevailing rate established by the insurer for each geographic area surveyed”, “a description of the specific geographic area covered by the prevailing labor rate reported”, and “ a description of the formula or method the insurer used to calculate or determine the specific prevailing auto bode rate reported for each specific geographic area.” The Department of Insurance, and anyone requesting a copy of the survey information as permitted by law, would thus be able to analyze the survey results appropriately in light of whatever sampling or surveying methodology was used, and draw from that whatever conclusions they may. That is as much as the Legislature intended or permitted. To introduce the concept of “majority” in the regulation would greatly expand on what the Legislature intended and achieved in enacting Senate Bill 1988.</p>	

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		In light of the above comments, we would suggest that subpart (b) be modified to read as follows: "The term "prevailing auto body rate" as used in Insurance Code section 758(c) means the rate determined and set by an insurer in a specific geographic area as a result of conducting an auto body repair labor rate survey, and used by the insurer as a basis for determining the cost to settle automobile collision, physical damage, and liability claims or auto body repairs."	
<p>Jack Molodanof, Esq. 2200 L. Street Sacramento, CA 95816</p> <p>On behalf of the California Autobody Association</p> <p>May 14, 2002</p> <p>Written Submission via facsimile and e- mail</p>	2698.91(a)	<p>The proposed regulations, among other things, would define a labor rate survey. We are very concerned that the definition, as drafted, is much too narrow. The survey definition must be broadened to cover any gathering of information, whether formal or informal, from any source to determine the prevailing rate.</p> <p>Every insurer in the State, in order to properly adjust and settle automobile insurance claims and repairs, must gather sufficient information to determine whether the labor rate charged by a repair facility is fair and reasonable. The bottom line is that</p>	<p>No change will be made in response to this comment.</p> <p>The proposed regulation uses the phrase "any gathering" (emphasis added), which is very broad and would encompass all types of gathering suggested by the commenter, formal or informal, written or oral.</p>

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		<p>all insurers must gather this information. Insurers use a variety of methods to get the information that range from very formal written surveys to informal conversations with industry sources. One way or another they get the information.</p> <p>Therefore, the definition must be broad enough to capture all gathering methods used by the insurance industry. We suggest the following: “A ‘labor rate survey’ is any gathering of information, whether formal or informal, from any source, to determine the prevailing auto body rate charged by auto body repair shops in a specific geographic area.”</p>	
<p>Lucianna Russo Russo Consulting Management Professionals P.O. Box 60007 Reno, Nevada 89506</p> <p>May 17, 2002</p> <p>Written Submission via facsimile</p>	2698.90(a)	<p>Proposed Section 2698.90(a) the following changes/wording should be considered.</p> <p>“Direct Repair Programs” are defined as any contractual relationship, verbal agreements or otherwise between an insurer representative and anyone who engages in the business of collision repairs that removes the owner of the vehicle from the repair and decision making process.</p> <p>The contracting party’s that do engage in any of these types of agreements,</p>	<p>No change will be made in response to this comment.</p> <p>The commenter’s suggested definition contains language that misinterprets the meaning of Direct Repair Program under the enacted statute. Moreover, the suggested definition adds substantive provisions not authorized by the enacted statute or intended by the Legislature.</p>

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		<p>arrangements or contracts shall equally be governed by all regulatory agencies applicable to that business or industry. The owner/consumer shall not be required to sign, endorse, and agree to any portion of the repair process for the purposes of acceptance and liability.</p>	
	2698.91(a)	<p>Proposed Section 2698.91(a) the following changes/wording should be considered.</p> <p>“Labor rate surveying” is defined as a solicitation to all licensed auto body repair facilities and shall be recognized as and not endorsed or represented as being accurate, complete or binding in anyway. It shall only provide a generalization of information to the public, to government or other state agencies or any other interested party. It is recognized that there are too many variables and comparable issues that would have to be taken into consideration to utilize these results as anything other than accurate.</p> <p>A disclaimer shall be on the survey form that should include, due to variable geographical costs, equipment, size of business and other variables this information will not represent or have any influence on</p>	<p>No change will be made in response to this comment.</p> <p>The commenter’s suggested definition contains language that misinterprets the meaning of labor rate surveys under the enacted statute. Moreover, the suggested definition adds substantive provisions not authorized by the enacted statute or intended by the Legislature.</p>

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		<p>suggesting, setting or establishing a “survey rate” or “prevailing rate” to be considered or the complete survey process therefore this is not to be utilized as “setting or establishing a prevailing rate”.</p> <p>All issues referring or pertaining to the results of the “surveying” such as but not limited or restricted to; the method used, response rate or percentages, calculations, any amounts or averages based on the results, shall be available for public viewing.</p> <p>It shall be conducted by the State of California, a disinterested agency, preferably by the Consumer Affairs division.</p>	
	2698.91(d)	<p>Proposed Section 2698.91(d) the following changes should be considered.</p> <p>“Submit labor rate surveys” is defined by the designated place set forth by the DCA for the process and calculating or collection and performing survey results.</p>	<p>No change will be made in response to this comment.</p> <p>The commenter’s suggested definition adds substantive provisions not authorized by the enacted statute or intended by the Legislature.</p>
	2698.91(e)	<p>Proposed Section 2698.91(e) the following changes should be considered.</p> <p>“Labor rate results directed to and conducted</p>	<p>No change will be made in response to this comment.</p> <p>The commenter’s suggested definition</p>

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		<p>by” the DCA.</p> <p>The results should not be used or utilized for any business other than the state for their actuarial information only. No private industry should refer to, utilize or set reimbursement fees of any kind based on any of the results achieved from this survey process.</p>	<p>adds substantive provisions not authorized by the enacted statute or intended by the Legislature.</p>
	<p>2698.90(b) 2698.91(b) 2698.91(c)</p>	<p>Proposed Section 2698.90(b), 2698.91(b), and 2698.91(c) should be completely and entirely eliminated (Reasons being)</p> <p>These attempts to make proposed changes to the various listed sections are nothing more than an HMO/PPO in an infant stage to attempt to regulate the business of automotive repair relationships similar to the medical profession and insurers.</p> <p>As we are all aware, there are many reasons why this should NOT take place and that it will result in detrimental affects on the consumers of the State of California. This only allows and opens the door to having potentially huge detrimental impacts on almost all of the impact study concerns listed in this proposal. It could result in the taxpayers enduring higher costs both</p>	<p>No change will be made in response to this comment.</p> <p>Proposed section 2698.90(b) simply directs the auto body repair shop reporting a denial to participate in an insurer’s Direct Repair Program where to make that report. This comment does not address any aspect of this section.</p> <p>The commenter’s suggested definition adds substantive provisions not authorized by the enacted statute or intended by the Legislature.</p> <p>Additionally, the material re HMOs is irrelevant. Direct Repair Programs are already acceptable under currently law in certain circumstances. This statute is</p>

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		<p>monetarily and potentially bodily injury or death related issues along with detrimental and adverse affects on economic issues.</p> <p>With more of what is being exposed in the medical profession with the interference, control and dominance brought on by insurer/medical profession relationships the whole concept of protecting the citizens and consumers has resulted in compromises, unwarranted deaths and good quality medical care that has diminished severely. This too has been happening in the business of automotive repairs due to these premature, unregulated relationships.</p> <p>With the acceptance, adoption and implementation of these proposed changes it will restrict and limit competition within the quality service providers by forcing them to compete with less quality providers participating in these relationships. It could also steal from the consumer the benefit of contract (an insurance policy), conflict with contract and tort law and many other legal issues related that would be argued.</p> <p>With the very essence of protection of consumers anti-trust laws will be bridged as the consumer will be deprived and restricted</p>	<p>not related to whether insurers should or should not have Direct Repair Programs.</p>

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		<p>by controlled enterprise instead of free choice and quality services in an open market. These proposed changes will allow entities to compare and set process by claiming “an industry standard,” or a “prevailing rate” is and has been established that should be followed that some small business have no control over costs of doing business and would not be able to compete.</p> <p>I strongly urge this committee to set aside the proposed changes and in my opinion if allowed to move forward it will cause conflicts both legally in my opinion but also with regards to allowing one private industry in controlling and abusing another that will be detrimental and have a severe impact on the business community and the consumers in your state.</p> <p>With preliminary studies and surveying that I have performed in the state of New Hampshire it is clearly documented and apparent that the insurance industry has controlled the costs of collision repairers with unjust “hourly” and “prevailing rates.” I can provide actual survey responses from businesses that have or are presently engaged in these relationships that have</p>	

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		<p>voiced their complaints as some of the biggest advocates against these relationships. This type of legislation only forces almost all small businesses to reduce their charges at the costs of the purchasers resulting in fraudulent activities, poor workmanship and unsafe products.</p> <p>Promoting lower prices, offering the exact same product or services that a competitor charges or sells for and with regard to anti-trust matters under normal conditions would be beneficial to consumers and commendable but not when it involves the automotive and medical profession and industry.</p> <p>The issues will remain on whether or not this type of proposed legislation will affect free enterprise, free trade and open competition alive and well. Unfortunately with the dominance of the insurance industry being in control to conduct, formulate, set and declare the “prevailing rates.” With the insurance industry benefiting, ultimately it unjustly enriches them and not the small business or consumers in the state.</p> <p>With insurers allowed to legally and with</p>	

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		<p>regulated approval to promote and market based on past utilized word tracts, present and past claims handling practices it has proved to be volatile. Coupled with the temptation and rewards the insurance industry offers and promises it tempts small businesses that if you become on of their associates or partners you benefit when in fact it has been proven to be nothing more than volatile and deadly combination to all.</p> <p>Some of this very proof lies with a recent preliminary release of information from your own Bureau of Automotive Repairs pilot project-re-inspection program. It is now being made aware that the majority of post repair inspected vehicles reflect fraud, poor, unsafe and flawed repairs.</p> <p>Most businesses that attempt to compete with this type of relationship (Direct Repair Programs) promotes cutting costs all the way around. It does NOT benefit the consumers with results of lower premiums, nor does it promote quality services. Again if achieved it would be a welcome to consumers in your state but not if it forces a business to cut wages, lower the quality of services, involves more litigation that</p>	

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		<p>ultimately does affect the consumers in the long run.</p> <p>These types of proposed changes and the adoption of legalizing these direct repair relationships through legislation only promotes more reduction and choices of QUALITY and SAFE repairs to automobiles.</p> <p>This will not only be detrimental to the lives housed in these repaired vehicles but with these vehicles back out on your highways and roads it could if not already cause injury and death to other innocent consumers lives.</p> <p>The negative impact on consumers will also be affected due to the reduction of wages with these arrangements and partnerships between insurers and collision repair businesses. As the wages are reduced and with the cost of living and other factors increase it has a domino affect on the economic status of the state. Taking approximately 5500 licensed body shops with an average of 5 employed workers that leave approximately 27,500 or more employed workers who will face additional financial difficulties.</p>	

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		<p>With financial difficulties impacting employed citizens, communities and other taxpayers then face other potentially cost advancing factors such as family welfare issues, crime issues, chemical dependency issues and many other issues hat do rise from a depresses economic community.</p> <p>Not to mention the 5500 licensed independent business that are now being stripped of their right to freely conduct business without interference in a free trade capitalistic society by allowing another private or state regulatory entity to set or establish “rates” to be charged.</p> <p>It seems apparent that for reasons unknown at this time that proper and thorough impact studies should be conducted before any changes are even considered to be made o Proposed Section(s) 2698.90(b), 2698.91(b), 2698.91(c) and implementation of acceptance of the others at this time.</p> <p>It is my opinion as a consumer and collision industry advocate that legal opinions should also be requested from the Attorney General with regards to several issues including referring to a 1963 consent decree that is</p>	

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		<p>still in force pertaining to these very concerns before adopting any changes.</p> <p>To allow the adoption, changes and endorsement of these proposed changes it is my opinion that it will in fact have a direct impact, potentially devastating adverse affects on the very studies that the commissioner has stated it won't. Impact studies should be done with regards to "Economically on businesses," "Potential cost impact on private persons or entities/Businesses", "Averse affects on Jobs & Businesses in California" "Potentially affect with adverse repercussion with other social issues" and "Devastation and elimination of Small businesses."</p>	
<p>Henry Woods R.B.D. Communications 130 Market Street #130 Inglewood, CA 90301</p> <p>May 17, 2002</p>	<p>No section specified</p>	<p>I'm here on behalf of R.B.D. Communications representing the compliant auto body industry. And we'd like to just make it known that, you know, a lot of times when there are auto body repairs by an insurance company, it looks like we're overlooked in the community even though we are qualified and have 17 auto body shops that are black owned that are qualified</p>	<p>No change will be made in response to this comment.</p> <p>The comment is irrelevant in that it is not specifically directed at the proposed action or to the procedures followed in proposing or adopting the action.</p>

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Oral Comment Submitted		<p>to do the work; but we just don't seem to get the work.</p> <p>So that's what we want to go on the record and state this morning. We appreciate you being here this morning to listen to us.</p>	
<p>Carol Brennan 21st Century Insurance 6301 Ownesmouth Ave Woodland Hills, CA 91367</p> <p>May 17, 2002 Oral Comment Submitted</p>	2698.91(a)	<p>The first point I wanted to make – let me get organized here – under 2698.91(a), there's the definition of a labor rate survey. One of the things that we wanted to point out right now, the definition says that it's any gathering of information.</p> <p>What we would like to be is something more, that information that is gathered specifically for the purpose of a labor rate survey; and the reason for that is because we're concerned that if it's any information, that then suddenly all claims data, claim files that include an estimate in it, it could become one giant survey. And when you look at individual estimates, sometimes there's other things affecting the estimate that may not have anything to do with, quote, a prevailing rate. It might involve</p>	<p>No change will be made in response to this comment.</p> <p>The proposed regulation currently defines an auto body labor rate survey as a gathering of information <u>to determine and set a specified prevailing auto body repair rate</u> (emphasis added).</p> <p>Moreover, the current language addresses the commenter's concerns. Even if an insurer were to use the auto body repair rates from estimates used in previously paid claims to determine and set a prevailing auto body repair rate for a specific geographic area, the statute and proposed regulations only require the insurer to submit the results of the survey, not the background materials.</p>

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		<p>more mechanical labor, it might involve a rush job for one reason or another, it might involve some other factors that may not affect it. So, we're offering an alternative definition on written comments, so I won't repeat it.</p>	<p>The description of the methodology used, as required by proposed section 2698.91(c) would indicate that the insurer used estimates from previously paid claims as the basis for its determination of the prevailing rate.</p>
	2698.91(b)	<p>Under 2698.91(b) it talks about prevailing auto body rate. This one might take a little longer to explain.</p> <p>We think that rather than having it stated as one single auto body rate, that we would like it to be expressed as a range; and the reason for that is when you – first of all, labor rates, we're wondering does this mean any shop or is it a qualified shop? Because if we were taking a labor rate survey, we would tend to only ask shops that are qualified to do the work, have adequate technical skills, shop facilities, customer satisfaction, and those types of things.</p> <p>So, I mean, the labor rates could be skewed by who you include in your survey. There's nothing in the definition that said, you know, whether it's the qualified shops, shops you actually use, that type of thing.</p> <p>When you get into the prevailing auto body</p>	<p>No change will be made in response to this comment.</p> <p>Cal. Ins. Code section 758 does not authorize the Department of Insurance to dictate whether an insurer conducts an auto body labor rate survey. Nor does it authorized the Department of Insurance to dictate what shops should be surveyed, how the rate should be expressed or calculated, or what geographic boundaries should be set if an insurer conducts such a survey. The statute only requires that the insurer submit the results of any auto body labor rate survey it does conduct, including the names and addresses of the shops surveyed, the total number of shops surveyed, the prevailing auto body rate determined, the geographic area covered by the rate(s) determined, and the methodology used to determine the prevailing auto body rate(s).</p>

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		<p>rate, if you narrow geographical areas, the smaller they get, we believe that there's a bigger chance of having collusion or antitrust activity amongst shops where they can fix prices.</p> <p>If you go into bigger areas, then what happens is – say you go by county. If you had a county, within that county there's a lot of instances where it includes both urban and rural areas, and we believe that two of the main factors affecting labor rates are the availability of skilled labor and the cost of living. So if you express the geographical areas as a county, you know, you've got to include everything in that county so you get a lot of different factors. That's why we say a range makes more sense.</p> <p>Also, when you talk about auto body rate, actually what we use in estimating repairs is three different rates, one for mechanical, one for auto body repair, and a third for painting; and so this survey seems to be talking about auto body rates only. I don't know if that was your intent or not.</p> <p>But going – when you talk about just auto body rates, also those can be skewed by – we're thinking, you know, this survey is</p>	<p>the prevailing auto body rate(s).</p> <p>Additionally, Cal. Ins. Code section 758 refers only to auto body repair labor rates. It is inapplicable to other rates auto body repair shops may charge for other services it provides.</p>

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		intended to get common makes and models with commonly available parts and those types of things; but when you're dealing with the specialty autos, foreign autos, luxury autos, classic cars, then it makes more sense to have a range because you're going to have different shops that qualify. You may have shops that qualify for normal makes and models but may not have the expertise – may have the desire to do the work but may not have the expertise. So it's going to skew things. That's why we say expressing it as a range is a better thing.	

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	2698.90(a)	<p>And then my last comment, we don't take any issue with the definition of direct repair program; but I'm not really sure where this is headed in the future so I just want to make a comment that we would like it to remain as you have it defined now where it's a shop that an insurance company recommends for repair under some type of contract.</p> <p>We personally do formal contracts, but we know other companies operate different ways; but if that was to change in the future and become simply a level of criteria and then once the shop meets the criteria they can be part of a direct repair program, it kind of – it misses another important factor, and that is there might be a shop that's technically qualified, that they have all the right skills, all the right equipment; but if we get a lot of complaints back and/or the jobs are just taking too long and they're too slow, we would want to be able to exclude that kind of a shop. It's just creating problems for us. So we'd like it to continue to be voluntary and based upon a contract.</p>	<p>No change will be made in response to this comment.</p> <p>The definition of Direct Repair Programs in proposed regulation section 2698.90(a) currently requires an agreement between the insurer and the auto body repair shop to qualify as a Direct Repair Program.</p>

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<p>Rocco Avellini Collision Repair Consulting Wreck Check 1891 N. Gaffey Street “Q” San Pedro, CA 90131</p> <p>May 17, 2002 Oral Comment Submitted</p>	<p>No section specified</p>	<p>My name is Rocco Avellini from Collision Repair Consulting, Wreck Check, and I’m here I guess on behalf of the consumer today.</p> <p>My services directly relate to the inspection of automobiles after they come out of the R.P. shops. 90 percent of the vehicles I look at are repaired at direct repair shops and they tend to be some of the worst repairs that I inspect.</p> <p>What confuses me – I sold my repair facility last year. I was in the industry for 31 years, Lexus certified. I’m a cartronic frame repairer and a licensed air-conditioning mechanic in the State of California, and I also testified in front of the California Senate at Jackie Spears’ hearing two years ago on D.R.P. and improper repairs, so I’m here today on behalf of the consumer. And I’ve been doing a lot of research, and something that confuses me a little bit is that I understand that the policies that are being sold in California today are full indemnity policies, which basically gives the consumer the right to enter into a contract with a repair facility and the repair facility to do the same, making the contract of repair with the</p>	<p>No change will be made in response to this comment.</p> <p>The comment is irrelevant in that it is not specifically directed at the proposed action or to the procedures followed in proposing or adopting the action.</p>

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		<p>consumer.</p> <p>The policy states that the insurer's supposed to indemnify the consumer for the cost of the repair. I don't know why this committee – the Commission is even thinking about giving the insurance company the ability to come in and interfere with that contract, whether it be a laboring situation, a parts discount. I was reading about some areas here where they're entitled to ask the shop to pay for rental cars.</p> <p>In an indemnity policy, as I understand, any and all savings that happen during the contract of repair, both ways to the consumer; that money's supposed to be refunded to the consumer, not to the insurance company. The consumer pays a premium to be indemnified. They have the right to use that money to do anything they wish. They can go and use that money to buy a big-screen T.V. if they like. They don't have to get their vehicle repaired. So I can't understand why the insurance company would be taking any discount advantage here. It's –it rightfully belongs to the consumer. So entering into this and passing this is absolutely – I don't</p>	

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		understand it. Thank you.	
<p>Bill Saxon Bsaxon@Rydells.com</p> <p>June 12, 2002 10:18 am</p> <p>Written Submission via e-mail</p>	No section specified	<p>These new changes in language I believe gives the insureds legal grounds to set the rates that the shops may charge. This is an unfair practice. So, does this mean that the insureds can pick and choose the shops they may want to survey in a given area and these shops may indeed be the known substandard shops in the area and whatever rate they give comparably will be the rate the insurance co. will pay only legally to a shop no matter what their door rate may be? What we charge to fix a car properly will be set by the insurance companies not by us?? Seems like a lot of unfair claims practices going on there. What next? I guess we already know the insurance companies are buying their own repair shops. Next the insureds will be able to go into the grocery store and say I am from ----- insurance company and all we pay for milk is \$2.00 a gallon even though the store may charge \$4.00 a gallon. Do you think the store will sell it to them? Well, without much thought you already know the answer will be no. So, why is it different in our industry? Think about it.</p>	<p>No change will be made to the amended text in response to this comment.</p> <p>The regulations do not require or in any way suggest that an insured conduct any auto body labor rate survey. To the extent the commenter is referring to insurers, the insurer is not required to conduct any auto body labor rate survey either. The statute and regulations simply require that IF an insurer conducts an auto body labor rate survey, it must report the results to the Department of Insurance. The statute does not intend, nor does it authorize, the Department of Insurance to dictate how the survey is to be conducted or the number and quality of shops that are to be included in the survey.</p> <p>The comment is otherwise irrelevant in that it is not specifically directed at the proposed action or to the procedures followed in proposing or adopting the action.</p>

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<p>Jack Molodanof, Esq. 2200 L. Street Sacramento, CA 95816</p> <p>On behalf of the California Autobody Association</p> <p>June 20, 2002</p> <p>Written Submission via e-mail and facsimile</p>	2698.91(a)	<p>The key section and the “heart and soul” of 758(c) is the definition of “survey”. The Department of Insurance (“Department”) is narrowly defining survey to a point of rendering it meaningless. Section 758(c) states: “Any insurer that conducts an auto body rate labor rate survey to determine and set a specified prevailing auto body repair labor rate in a specific geographic area shall report the results of that survey to the Department, which shall make the information available upon request.”</p> <p>Why is the Department limiting the definition of survey to information gathered only from auto body shops? As you are fully aware, insurers use a variety of methods to gather information that range from formal written surveys to informal conversations and contacts with industry sources including, but not limited to, adjusters, estimators and consultants. Webster’s Dictionary defines survey broadly as “a process of finding and gathering.” More importantly, the statute does not limit the gathering of information to auto body shops only, nor should the Department. As previously indicated in my letter of May 14, 2002, all insurers gather this information</p>	<p>No change will be made to the amended text in response to this comment.</p> <p>The definition of “auto body labor rate survey” is currently very broad. Any information gathered pursuant to the statute must originate from a body shop regardless of the mechanism by which it was gathered. If intermediaries are used to gather the information, the gathering would still qualify as a survey. (i.e an insurer hires a third party to conduct a survey on its behalf)</p> <p>For example, if an insurer did not go out and ask specific body shops what rate they charged for auto body repair, but determined and set a prevailing auto body repair rate based on the rates used by specific shops for previous repairs, the gathering and comparing of those rates to determine and set a prevailing rate would still be a survey under this section.</p> <p>The current definition of “auto body labor rate survey” addresses the concern raised by this commenter.</p>

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		<p>whether formally or informally, to determine whether the labor rate charged by a repair facility is fair and reasonable.</p> <p>By narrowly defining the statute the Department has rendered the 758(c) meaningless. We suggest that “from auto body repair shops” be deleted from the definition and should read as follows: “An auto body labor rate survey is any gathering of information regarding what auto body repair labor rate the repair shops charge to determine and set a specified prevailing auto body repair rate in a specific geographic area.”</p>	
<p>Troy D. DeBiase, Pres. Accurate & Company, Inc. 1300 North H Street Lompoc, CA 93436</p> <p>On behalf Accurate Auto Body</p> <p>June 24, 2002</p>	2689.91(b)	<p>Amendments to the definitions concerning DRPs are relatively minor, the changes to the regulation concerning labor rate surveys provide insurers with considerable room to determine labor rates. The original proposal defined the prevailing auto body rate as:</p> <p>... the rate charged by the majority of auto body shops in a particular geographic area ...”</p> <p>The revised definition defines the prevailing</p>	<p>No change will be made to the amended text in response to this comment.</p> <p>Section 758 does not authorize the Department of Insurance to dictate or set how any insurer conducting an auto body repair labor rate survey should conduct its survey or what method it should use to determine a prevailing auto body labor rate in a specific geographic area. It simply says that IF and insurer conducts an auto body</p>

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Written Submission via facsimile		<p>rate as:</p> <p>“...the rate determined and set by an insurer as a result of conducting an auto body labor rate survey of auto body repair shops in a particular geographic area ...”</p> <p>While the insurer will still be required to submit a description of the formula used to calculate the prevailing labor rate for each area there are no specific requirements concerning what that formula should take into account as was the case under the “majority” definition in the original proposal.</p> <p>The issue is causing us repair facilities, a lot of problems. Insurance companies as well as adjusters feel that they do not have to have a survey that meets your format to set pricing for a geographic area. They feel all they have tell a shop is that they have called around or that they have seen what other facilities are charging.</p> <p>Adjusters and insurance carriers always tell us that we are the only one that charges certain procedures and that out labor rates are not in step with other facilities.</p>	<p>repair labor rate survey to determine and set a specified prevailing auto body labor rate in a specific geographic area, they must provide the results of the survey to the Department of Insurance. The statute does not require an insurer to conduct such a survey. As acknowledged by the comment, the “majority” language implies a specific methodology the insurer should use. The statute does not intend, nor does it authorize, the Department of Insurance to dictate how the survey is to be conducted or the number and quality of shops that are to be included in the survey. Nor does the statute require that an insurer provide the results of its survey, if conducted, to an auto body shop – only to the Department of Insurance.</p> <p>The comment is otherwise irrelevant in that it is not specifically directed at the proposed action or to the procedures followed in proposing or adopting the action.</p>

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		<p>However, when you ask for the information of whom they have spoken to or survey they tell you they do not have to give you that information.</p> <p>Farmers insurance is telling us as a contract shop if we do not change our estimate to say what they are willing to pay, and then they cannot pay our final bill till we do.</p> <p>We document our files with the information from our database, which is pathways for the procedures pages with photos proofing that we are performing the procedures, copies if all invoices along with final repair work.</p> <p>Insurance companies are now buying body shops are they going to be able to use those rates to challenge ours. The insurance companies already don't follow your rules, as they are written, they lobby to get them re-written to make sure that the insurance companies themselves benefit and not the insured. Any discounts (used parts, reconditioned, aftermarket parts) rather than O.E.M. parts, the discount benefits the insurance company. When the insured buys a Chevy they do not buy after market Chevy vehicle.</p>	

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		<p>As the original wording is prepared now it does not give the insurance companies a loop Hole to set prevailing rates. The new wording would allow insurance companies to use their preferred shop prices which than does not give the customer the right to choose the repair shop of their choice.</p> <p>Please help us as independent body shops and insured to tell us what we can and can't do with our vehicles.</p> <p>Any assistance on this matter would be greatly appreciated.</p>	
<p>Cindi Ries, Manager Otis Auto Body 3473 Empressa Drive San Luis Obispo, CA 93401</p> <p>Written Submission via facsimile</p>	No Section Specified	<p>I am opposed to the proposed revision to Labor Rate Survey Regulation. Rather, I would like the current regulation to be enforced and promoted so that insurance companies will abide by the current regulation.</p> <p>As it stands today many insurance companies and adjusters feel that they do not have to have a survey that meets the current California Department of Insurance format for setting prices for a geographical</p>	<p>No change will be made to the amended text in response to this comment.</p> <p>Ins. Code §758 simply says that IF and insurer conducts an auto body repair labor rate survey to determine and set a specified prevailing auto body labor rate in a specific geographic area, they must provide the results of the survey to the Department of Insurance. Neither the statute nor these regulations require an insurer to conduct such a survey or</p>

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		area. They feel all they have to do is call a few shops in a market area and/or watch what facilities are charging. They then use these so called surveys to determine not only labor rates, but also how to pay for certain repair procedures. However, when you ask for the information of whom they have spoken to or for a copy of their survey they refuse to give you the information. This gives the insurance companies an opportunity set the prices for an area without foundation.	to provide any survey information to an auto body shop. It only requires that the results be submitted to the Department of Insurance.
Steven Foster Foster's Body and Paint 305 East Oak Street Santa Maria, CA 93454 Written Submission	No Section Specified	I am enclosing the following items for your review: 1) Copy of Directive from SCA Appraisal Service to their Adjusters on how they are to cut the Estimates for collision repair prepared by Collision Repair Facilities 2) Copy of Rate and Pricing Template Farmers wants to apply to its COD Shops 3) Copy of Insurance Adjuster Letter to Kemper Insurance-Please note that	No change will be made to the amended text in response to this comment. Ins. Code §758 simply says that IF and insurer conducts an auto body repair labor rate survey to determine and set a specified prevailing auto body labor rate in a specific geographic area, they must provide the results of the survey to the Department of Insurance. Neither the statute nor these regulations require an insurer to conduct such a survey or to provide any survey information to an auto body shop. It only requires that the results be submitted to the

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		<p>this Adjuster does not have his License No. On any of his appraisal reports and he has stated to us that he does not have to have a license. However he is writing an adjusters report of damage for insurance carriers that are being used for a settlement of an Insurance Claim. I thought that Insurance Code 140201 applied to a person that was adjusting claims that was not a direct employee of the insurance carrier.</p> <p>4) See Comment Section of Santa Barbara Appraisers to Insurance Carrier-Note they have no license No. On their sheet and once again they are instructing the insurance carrier on how to pay the repair facility.</p> <p>This issue has and is still causing Repair Facilities a lot of problems. Insurance companies as well as Adjusters feel that they do not have to have a survey that meets your format to set pricing for a geographic area. They feel all they have to tell a shop is that they have called around or that they have seen what other facilities are charging.</p> <p>Adjusters and Insurance Carriers always tell</p>	<p>the results be submitted to the Department of Insurance.</p> <p>This comment is otherwise irrelevant in that it is not specifically directed at the proposed action or to the procedures followed in proposing or adopting the action.</p>

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		<p>us that we are the only one that charges certain procedures and that out labor rates are not in step with other facilities.</p> <p>However, when you ask for the information of whom they have spoken to or a survey they tell you they do not have to give you the information.</p> <p>Farmer Insurance is telling us as a contract shop if we do not change our estimate to say what they are willing to pay, they cannot pay our final bill till we do.</p> <p>We document our files with the information from our Data Base, which is Mitchell from the Procedures Pages, with photos proofing that we are performing he procedure, copies of all invoices along with out itemized invoice for Paint and Materials. We have a proven track record with insurance carriers of refunding funds on a claim when the job final bill calculates to less than the original estimate.</p> <p>The insurance carriers as well as our customers can watch us repair their vehicles through our Web Site</p>	

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		<p>www.fostersbodyandpaint.com.</p> <p>We are Know writing all our Farmers Estimates with “Open Items so there is not charge made on Color Sand, Tint, Mask Time, Prime Times or Block Sand Time until we have performed the function and have submitted the photos to proof it. Farmers have told me again today, that they cannot pay my final bill unless I will change it to what they want to pay or until they can receive a sense of direction from their company.</p> <p>I wonder if policyholders are told that when they purchase their insurance?</p> <p>It would be very helpful to the consumer as well as to the repair facility if there could be a clear directive as to whether the insurance carriers are exempt from following the Insurance Codes since some of the insurance carriers as well as adjusters seem to feel that they can make their guide lines be what they choose and they do not have to give you their guide lines.</p> <p>It should be made clear when any of us purchase our insurance what we will or will not be paid for if there is a claim. Most of</p>	

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		<p>our insurance policies under the “collision provision states that they will fix our car.”</p> <p>I realize that the Departments of Insurance cannot make the Insurance Carrier pay the repair facility or the consumer. However clarification of the enforcement or their exemption to follow their Insurance Codes of this State would be beneficial for the repair facilities and the consumers. We would then know what to expect from the Fair Claims Settlement rather than what the adjuster or insurance carrier want to do or not do.</p> <p>Any assistance of clarification would be greatly appreciated.</p>	

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<p>Andy Anderson Mainline Autobody</p> <p>Nosrednaa@aol.com</p> <p>June 24, 2002 4:35 pm</p> <p>Written Submission via e-mail</p>	<p>No Section Specified</p>	<p>Just a quick note to let you know as a collision repair facility owner, I disagree with the proposed change to allow insurance companys to determine prevailing labor rates without looking at the majority. It sounds like like too many loopholes. Insurance companys would be writing there own guidelines.</p> <p>Thanks you for your attention to this important regulation revision.</p>	<p>This comment was received after the deadline set forth in the Notice of Amendment to Text of Regulation for timely receipt of comments and therefore, no response will be made.</p>